



United States
Department of
Agriculture

Forest
Service

Region One

200 East Broadway
P.O. Box 7669
Missoula, MT 59807

File Code: 1570
Route To: (1570)

Date: June 15, 2011

Subject: 1570 (215) A&L - ARO Letter - Beaver Creek Landscape Management Project
ROD - Custer NF - Treasure State ATV Assoc. - #11-01-00-0021

To: Forest Supervisor Custer National Forest, Appeal Reviewing Officer

This is my recommendation on disposition of the appeal filed by J. Bruce Rieirson, on behalf of, Treasure State ATV Association, concerning the Beaver Creek Landscape Management Project Record of Decision signed by the Ashland District Ranger Walt Allen on the Custer National Forest.

The District Ranger's decision adopts Alternative B as analyzed in the Final Environmental Impact Statement. The Selected Alternative includes treatment to reduce fuels and restore structural diversity on 10,508 acres of a 14,053 acre landscape. About 2500 acres will be thinned or cut commercially; of that, about 960 acres will also have prescribed fire applied. Approximately 4430 acres will be treated non-commercially by mastication or hand thinning, and 3500 of those acres will also have prescribed fire applied post-thinning. An additional 3600 acres would be treated only with prescribed fire. Access to treatment units will require 15.2 miles of temporary roads be constructed; these will be obliterated at the end of implementation. To maintain big game security, seasonal restrictions will be applied to two roads during hunting season in the project area. This modifies the 2009 Ashland Travel Management decision. Obliteration of seven short segments of road totaling 2.1 miles will also occur to reduce road densities and reduce the risk of cumulative watershed effects.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision is in compliance with applicable laws, regulations, policy, and orders. The appeal record, including the appellant's objections and recommended changes, has been thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeal and believe they are adequately addressed below.

The appellant alleges violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), and the Administrative Procedures Act (APA). The appellant requests a reversal of the ROD. An informal meeting was held but no resolution of the issues was reached.

ISSUE REVIEW

Issue 1. Best Available Science and big game. The analysis for this project is supposed to be based on a consideration of the best available science.



Response: The appellant claims the Forest Service failed to use the scientific references submitted by MTFWP.

Transition provisions for the 2000 Planning Rule direct that projects implementing land management plans must be developed considering the best available science in accordance with CFR 219.35(a). The NEPA document should include methods used, reference scientific sources relied on, discuss responsible opposing views, and disclose incomplete or unavailable information. See CFR 1502.22, 1502.24.

The project record referenced all information considered: papers, reports, literature reviews, review citations, peer reviews, science consistency reviews, and results of ground-based observations. The wildlife analysis includes over 200 scientific references (Project Record, section T). These references are not outdated or known to be flawed. It is clear how they were used and applied in the analysis, without each one being cited in the body of the wildlife analysis in Chapter 3 of the FEIS. Opposing views are discussed in response to comments in Chapter 4 of the FEIS

The scientific references submitted by Dean Waltee of MTFWP are included in the project record at C-006b. Collaboration with Fish Wildlife and Parks is documented in Chapter 4 on pages 4-63 and 4-64, and Project Record C-001, C-006a &b, C-007, and C-008.

Issue 2. Motorized Road Closures , Administrative Use Only, Roads and Trails

Response: The appellant alleges that seasonal trail closures are being imposed to placate a small minority, and administrative use roads should also be included in road density calculations for big game security.

Ranger Allen's letter responding to the appellant explains the need for road closures to improve habitat for Management Indicator Species (MIS). He stated "The FEIS showed a neutral impact for Alt A (proposed) and D (no action) and it showed an improvement under Alt B and C with the road closures" (Project Record C-042). It is widely accepted (FEIS page 3-324) that roads open to motorized use are a key factor in determining big game security. Administrative Use Only roads receive minimal use on an irregular basis and do not represent a significant influence on big game movement.

Issue 3. Montana Fish Wildlife and Parks

Response: The Appellant alleges that travel management decisions related to trail and road restrictions were "an ill fated attempt to appease the AWR and NEC", and that MTFWP is dictating management to the Forest Service.

Forest-wide management standards include coordinating with State Fish and Game agencies to develop management strategies that will maintain wildlife populations with habitat capacities and management area objectives, and to manage key wildlife species and key habitat in cooperation with state and Federal agencies. The Forest Plan is not prescriptive in how to address hiding cover or how and where to implement it. Rather it provides flexibility to incorporate the best available science.

Big game security areas were defined as areas ≥ 250 acres and more than 0.5 miles from an open motorized route. This improved from 16% to 28% of the project area by placing season motorized restrictions on two routes. Open motorized routes will now be less than one mile per square mile during hunting season (FEIS page 3-331). The responsible official describes the selected alternative as the best alternative to address and balance the issues analyzed in the BCLMP (ROD p. 9-17). The responsible official considered tradeoffs between motorized hunting and recreational access as well as big game security and seasonal route restrictions (BCLMP ROD p. 14-15; also see response to Wildlife, Big Game and Elk issue on FEIS page 4-63).

RECOMMENDATION

I have reviewed the record for each of the contentions addressed above and have found that the analysis and decision adequately address the issues raised by the appellant. I recommend the District Ranger's decision be affirmed and the appellant's requested relief be denied.

/s/ Julie K. King
JULIE K. KING
Appeal Reviewing Officer

cc: Ray G Smith
Mark Slacks
Walt Allen



United States
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Custer National Forest

1310 Main Street
Billings, MT 59105
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File Code: 1570

Date: June 16, 2011

Bruce Reiersen
Treasure State ATV Association
PO Box 32055
Billings, MT 59107

Dear Mr. Reiersen:

This is my decision on disposition of the appeal you filed, on behalf of the Treasure State ATV Association regarding the Beaver Creek Landscape Management Project Record of Decision (ROD) on the Custer National Forest.

My review of your appeal was conducted pursuant to, and in accordance with, 36 CFR 215.18 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. I have reviewed the appeal record, including your arguments, the information referenced in the District Ranger's May 16, 2011 transmittal letter, and the Appeal Reviewing Officer's analysis and recommendation (copy enclosed). The transmittal letter provides the specific page references to discussions in the ROD and project file, which bear upon your objections. I specifically incorporate in this decision the appeal record, the references and citations contained in the transmittal letter, and the Appeal Reviewing Officer's analysis and recommendation.

The Appeal Reviewing Officer has considered your arguments, the appeal record, and the transmittal letter and recommends the District Ranger's decision be affirmed and your requested relief be denied.

Based upon a review of the references and citations provided by the District Ranger, I find the objections were adequately considered in the ROD. I agree with the Appeal Reviewing Officer's analysis and conclusions in regard to your appeal objections. I find the District Ranger has made a reasoned decision and has complied with all laws, regulations, and policy.

After careful consideration of the above factors, I affirm the District Ranger's decision to implement the Beaver Creek Landscape Management project. Your requested relief is denied.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ Timothy W. Bond
TIMOTHY W. BOND
Appeal Deciding Officer

